

MADHYA PRADESH REAL ESTATE
APPELLATE TRIBUNAL AT BHOPAL

Appeal No. A-04/2026
Institution Date : 30/12/2025

Before

Hon’ble Justice Shri B.K. Dwivedi, Chairperson
Hon’ble Shri P.C. Gupta , Member (Judicial)
Hon'ble Shri Ravindra Singh, Member (Administrative)

M/s Star Dwellings Pvt. Ltd.
through its Director Shri Vivek Soni,
having office at: 317, Ashima Mall,
Narmadapuram Road,
Bhopal (MP) : Appellant

Versus

Real Estate Regulatory Authority,
through its Secretary,
RERA Bhawan, Arera Hills,
Bhopal (MP) : Respondent

Counsel for the parties

For the Appellant : Advocate Deepesh Joshi
For the Respondent : Advocate Aryan Gupta

ORDER

(Passed on 18/09/2026)

Per , Justice, B.K. Dwivedi, Chairperson

Appellant has preferred this appeal under Section 44 of the Real Estate (Regulation and Development), Act 2016 (for short, hereinafter referred as, 'the Act') for setting aside/quashing of impugned order dated 03/11/2025 passed by the Real Estate Regulatory Authority (for short, hereinafter referred as, 'the Authority') in case no. P-OTH-17-1156 of 'Heavens Dreams' under Section 8 read with Section 36 and 37 whereby following conditions have been imposed on the Appellant:-

"4. सम्प्रवर्तक द्वारा अधिनियम की धारा-4 (2) (L) (C), धारा-11, धारा-4(2) (L) (D), धारा-37 एवं धारा-4(2) (L) (D) के द्वितीय परंतुक का उल्लंघन किया गया है। परियोजना अब व्यपगत.. श्रेणी में आ गई है, ऐसी स्थिति में सम्प्रवर्तक अधिनियम की धारा (3) के अनुसार यथा स्थिती किसी भूखण्ड, अपार्टमेंट या भवन या उसके किसी भाग को किसी भी रीति में विज्ञापित, विपणित, बुक, या उसका विक्रय या विक्रय करने की प्रस्थापना अथवा क्रय के लिए व्यक्तियों को आमंत्रित नहीं कर सकता है। अतः भू-संपदा (विनियमन और विकास) अधिनियम, 2016 की धारा-36 एवं 37 के संदर्भ में प्राधिकरण द्वारा निम्नानुसार अंतरिम/निर्बंधन आदेश जारी किया जाता है-

प्राधिकरण की अनुमति के बिना अथवा प्राधिकरण द्वारा अन्य आदेश दिये जाने तक-

1. सम्प्रवर्तक इस परियोजना में कोई भी नई बुकिंग प्राप्त नहीं करेगा और किसी भी भावी अलॉटी से कोई अग्रिम राशि प्राप्त नहीं करेगा।
2. सम्प्रवर्तक इस परियोजना से संबंधित भू-संपदा के संबंध में किसी भी आवंटिती के पक्ष में कोई भी आवंटन आदेश (Allotment Letter) जारी नहीं करेगा।
3. सम्प्रवर्तक इस परियोजना से संबंधित किसी भी भू-संपदा के संबंध में किसी भी भावी आवंटिती के पक्ष में विक्रय अनुबंध निष्पादित नहीं करेगा।
4. सम्प्रवर्तक परियोजना- 'हेवन्स ड्रीम' (P-OTH-17-1156) से संबंधित किसी भी भू-संपदा के संबंध में किसी भी तृतीय पक्ष का हित किसी भी प्रकार से उत्पन्न नहीं करेगा।
5. सम्प्रवर्तक इस परियोजना के Designated Account से किसी भी उद्देश्य से कोई भी राशि आहरित नहीं करेगा।
6. सम्प्रवर्तक इस परियोजना से संबंधित किसी भी अलॉटी से भविष्य में प्राप्त होने वाली संपूर्ण राशि परियोजना के डेजिगनेटेड खाते में ही जमा करेगा।"

02. It is admitted that project '*Heavens Dreams*' was registered at No. P-OTH-17-1156 and the same has elapsed on 30/06/2021. It is also undisputed that the project was not completed in prescribed time under Section 4 (2) (l) (C) and Section 5(3) of the Act. It is also not in dispute that notices Annexure A/4, Annexure A/5 and Annexure A/6 issued by the Authority were not complied with by the Appellant. It is also undisputed that final order under Section 8 of the Act has been passed on 13/01/2026 which has not been put to challenge before this Tribunal or Hon'ble High Court.

03. Brief facts of the case are that Appellant company is incorporated under Companies Act 1956 in the name and style M/s Star Dwellings Ltd. *'Heavens Dreams'* having registration no. P-OTH-17-1156. Company was looked after by its ex-Director Raja Dubey, who unfortunately expired on 25/11/2017 and thereafter company was being looked after by its remaining partners.

04. Ld. counsel for the Appellants submits that impugned order passed by the Authority on the face of it is grossly illegal and deserves to be set aside, as the same has been passed in gross violation of principles of natural justice Appellant was directed to submit reply vide notice dated 15/10/2025 Annexure (A/9) and was also directed to appear personally on 07/11/2025 before the Ld. Authority at 11:00 am for further hearing but before aforesaid fixed date and time for further hearing, the impugned order was passed on 03/11/2025 behind the back of the Appellant, even without waiting for appellant to appear personally on the date fixed before Authority for appearance i.e. 07/11/2025. Impugned order deserves to be set aside on this ground alone.

4.1 Ld. counsel further submits that even otherwise impugned order is not sustainable the eyes of law, as there is no provision under the Act permitting the Ld. Authority to pass such order issuing direction to restrain the promoter from receiving any booking in the said project or issuing allotment letter, executing sale agreement or creating any third party interest or withdrawing amount from the designated account or any such acts, other which is not in the domain of the power conferred on the Ld. Authority under Sections 36 and 37 of the Act. Thus, the order passed by the Ld. Authority suffers from lack of jurisdiction and deserves to be set aside. To buttress his submission counsel has invited attention of this Tribunal towards the Section 3,8, 35, 36 and 37 of the Act, 2016.

4.2 Ld. counsel further submits that Appellant was not under any obligation to file QPR reports after lapse of the project on 30/06/2021. Section 3 operates on the promoter/s who have not registered their project with the Authority but in the instant case project was duly registered with the Authority which has lapsed on 30/06/2021. Thereafter, restrictions imposed upon the Appellant by the impugned order are suffering from over stretching of the power of the Ld. Authority which is not permissible under law.

4.3. Ld. counsel further invited attention of this Tribunal towards language used in the provision of Section 36 of the Act. He has emphasized on the words '*an act in contravention of the Act*'. Ld. counsel further submits that, since no such acts have been committed by the Appellant in contravention of the Act or the rule and regulations made thereunder, therefore this provision could not have been applied merely on the basis that Appellant has failed to comply with certain notices issued by the Authority. He further submits that not even single instance could be pointed out by the Authority which authorised the Authority to invoke provisions of Section 3 r/w Section 36 of the Act. On these miscellaneous contentions, Ld. counsel urges the Tribunal to allow the appeal by setting aside the impugned order.

05. *Per contra* Ld. counsel for the Respondent vehemently opposes the contentions advanced on behalf of the Appellant and supporting the impugned order, submits that the Appellant has not complied with the notices Annexure (A/4) dated 04/05/2022. Annexure (A/5) dated 08/06/2023 and Annexure (A/6) dated 07/07/2025 and Annexure (A/7) dated 23/09/2025. Ld. counsel further submits that as evident from the impugned order, Appellant has not maintained the amount in designated account as required by the Act, 2016 and has actually withdrawn the same. The Appellant in compliance of the aforesaid notices,

has not submitted requisite information as required under Section 4(2) (l) (C), Section 4(2) (l) (D) and Section 11 of the Act. Therefore, contentions advanced on behalf of the Appellant that *"an act has not been done by the appellant authorizing Ld. Authority to pass impugned order is baseless."* He further submits that appellant willingly & knowingly not only omitted to supply requisite information but the positive acts have also not been done by the Appellant in violation of provisions of the Act. In this regard contentions advanced on behalf of the Appellant are hyper technical in nature, which cannot be accepted.

5.1 Ld. counsel further submits, it is true that vide Annexure (A-9) dated 15/10/2025, Appellants were directed to appear on 07/11/2025 at 11:00 am for further hearing but it does not debar Authority from passing order under Section 36 of the Act. Inviting attention of this Tribunal towards wording employed in Section 36, Ld. counsel further submits that conclusion of inquiry or until further orders, without giving notice to opposite side, Authority is empowered to pass any order as it deems fit for protecting interests of the allottees and the same has been done by passing impugned order, hence, no objection raised by the Appellants is tenable in eyes of law. Ld. Authority acting well within its jurisdiction has passed impugned order which cannot be found fault with. Ld. counsel further submits that final order has already been passed, which is evident from the order filed with IA No. 2 by the appellant himself, which has not been challenged also, therefore, no grievance can be raised against the impugned order.

06. Heard and considered the rival submission at the bar and perused the record.

07. Before advertng to the merits of the case, application filed under Order 41 Rule 27 of CPC for taking order dated 13/01/2026 on record needs to be disposed of. Ld. counsel for the Appellant has prayed for taking aforesaid order on

record as it relates to the same proceedings wherein order under challenge in this appeal has been passed. On the other hand, Ld. counsel for the Respondent has opposed the prayer and prayed for dismissing the applications as order dated 13/01/2026 passed in '*Heavens Dreams*' (P-OTH-17-1156) is not under challenge in this appeal.

08. After hearing rival submissions of counsel for the parties, this Tribunal is of opinion that copy of the order filed along with IA No. 2 even though not challenged in this appeal can throw light on the affairs of the case in hand, therefore, if in this appeal needs to be taken on record, hence, IA No. 2 is allowed and the aforesaid order is taken on record.

09. It is undisputed and also evident from the impugned order dated 03/11/2025 project '*Heavens Dreams*' registration no. P-OTH-17-1156 has elapsed on 30/06/2021 and promoter has failed to complete the project in prescribed period as mandated under Section 4(2) (l) (C) and Section 5(3) of the Act. It is also undisputed that Authority by issuing notice Annexure A/2 directed the Appellant for submitting information in the prescribed proforma. Information submitted in Annexure A/3 was only on point no. 5, but information to be filled up in columns was not submitted therefore, vide Annexure A/4 again directions was given for submitting the same but even after that same was not submitted hence, Annexure A/6 dated 07/07/2025 and Annexure A/7 dated 23/09/2025 were issued to Appellant, Smt. Arti Dubey w/o Late Raja Dubey submitted written arguments Annexure A/8 but there was no response from the Appellant. It has also transpired during arguments that Arti Dubey is having no position in the Appellant company thus it is apparent that even after service Appellant did not file any response or requisite information as was required by Authority and thereafter to protect the interest of the allottees impugned order was passed on the basis of material available

on the record. It is apparent that due correspondence was made by the Authority for requisitioning the required information and same had fallen on deaf ears and thereafter Authority was constrained to pass impugned order.

10. Under Section 8 of the Act obligation has been imposed on the Authority for doing certain acts upon lapse of registration or on revocation of registration under this Act. The instant case falls under the first category of lapse of registration. Under Section 36 of the Act power has been given to the Authority to issue interim orders to protect interest of the allottees. Impugned order has been passed by the Authority falls under the aforesaid category for which Authority is fully empowered by aforesaid provision of the Act. It is beneficial to reproduce Section 36 of the Act, which runs as under:-

"36. Power to issue interim orders.—Where during an inquiry, the Authority is satisfied that an act in contravention of this Act, or the rules and regulations made thereunder, has been committed and continues to be committed or that such act is about to be committed, the Authority may, by order, restrain any promoter, allottee or real estate agent from carrying on such act until the conclusion of such inquiry of until further orders, without giving notice to such party, where the Authority deems it necessary."

11. In the instant appeal during arguments, it has transpired that even the amount required to be maintained in the designated account has not been maintained, therefore, contentions advanced on behalf of the Appellant that words "an act" employed in Section 36 of the Act are fulfilled. Such act of the Appellants cannot escape from the ambit of the aforesaid words. Even otherwise, non-compliance of the notices issued to the Appellant, even if it is omission impliedly comes under the category of 'an act', which gives rise a reasonable apprehension for imposing restrictions as contained in Section 3 of the Act by way of interim

measures to protect the interest of the allottees, therefore, contentions advanced on behalf of the Appellant that there was no ground for invoking of provisions of Section 36 of the Act and imposing restriction as contained in Section 3 of the Act cannot be accepted.

12. Other contention which has been advanced on behalf of the Appellants is with regard to passing of impugned order on 03/11/2025 prior to date 07/11/2025 fixed for hearing without affording opportunity of hearing infringes principles of natural justice even though appears attractive but having no force. From perusal of record, it is apparent that in notice dated 15/10/2025, Annexure (A/9) date 07/11/2025 was given with the directions to the Appellant to appear at 11:00 am for further hearing and in the meantime on 03/11/2025 impugned order was passed. From perusal of the notice Annexure (A/9), it is evident that it is not the case where interim order was to be passed after hearing Respondent on 07/11/2025. From the language used in Section 36, it is apparent that as interim measure order under Section 36 can be passed without giving notice to the opposite side, where the Authority deems it necessary. In the instant case also, this power has been used by Ld. Authority, looking to the conduct of the appellant. Therefore, it cannot be said that Ld. Authority has acted beyond its jurisdiction and impugned order suffers from jurisdictional incompetence.

13. Further arguments advanced on behalf of the Appellant that restrictions as contained in Section 3 are applicable only to the promoter who has never secured registration for its project, in considered view of this Tribunal is also misconceived. When the project has not been completed within prescribed validity period of registration, and it elapsed in such a situation also, the project will be deemed without registration. Rigor of Section

3 will be applicable also on such projects even if they have earlier secured valid registration from the Authority, otherwise if arguments advanced on behalf of appellant are accepted whole purpose of enactment of the Section 3 of the Act, 2016 will be frustrated, therefore, this contention raised on behalf of the Appellant can also not find stamp of approval of this Tribunal.

14. It is also worth reiteration that final order under Section 8 of the Act has already been passed on 13/01/2026, which has not been challenged.

15. In the light of aforesaid discussion, we are of the considered view that Appellants have failed to make out any case for interference by exercising appellate jurisdiction by this Tribunal as impugned order is not suffering from any legal or factual error. Appeal is sans merits, fails, deserves to be and is hereby dismissed.

16. Parties will bear their own cost.

17. Copy of this order be provided to the parties free of cost.

18. Copy of this order be sent to the Secretary RERA for information along with record of the Authority.

19. After noting the result case be consigned to the Record Room.

Sd/-
(JUSTICE B.K. DWIVEDI)
CHAIRPERSON

Sd/-
(P.C. GUPTA)
MEMBER (J)

Sd/-
(RAVINDRA SINGH)
MEMBER (A)

Date: 18/09/2026
Place: Bhopal